

**BEFORE THE APPEALS BOARD
FOR THE
KANSAS DIVISION OF WORKERS COMPENSATION**

CHARLENE GARCIA)	
Claimant)	
VS.)	
)	Docket No. 245,195
HUBCO, INC.)	
Respondent)	
)	
and)	
)	
ST. PAUL FIRE & MARINE)	
INSURANCE COMPANY)	
Insurance Carrier)	

ORDER

Claimant appealed the February 7, 2002, Final Order entered by Assistant Director Kenneth J. Hursh. The Board placed this appeal on its summary calendar. The Director of the Division of Workers Compensation appointed Stacy Parkinson of Olathe, Kansas to serve in place of Board Member David A. Shufelt, who recused himself from this claim.

Issues

This is a claim for bilateral upper extremity injuries claimant alleges she suffered as a result of a series of accidents beginning in April of 1999 and continuing each and every working day thereafter while employed by respondent. On December 13, 2001, claimant and claimant's attorney filed a motion requesting that Administrative Law Judge Bruce E. Moore (ALJ) be recused from this claim and all other matters involving claimant's attorney.

In a letter dated January 4, 2002, Assistant Director Kenneth J. Hursh notified the parties that the Director had temporarily assigned the case to him for hearing and decision on claimant's Motion to Recuse Administrative Law Judge Bruce Moore. On February 7,

2002, the Assistant Director entered a Final Order and denied claimant's recusal request. The Assistant Director concluded that the allegations made against the ALJ, if true, would not cause a reasonable person to believe that the ALJ would not afford claimant a fair hearing or claimant's attorney fair treatment in future proceedings.

Claimant and claimant's attorney contend that the Assistant Director erred. In their brief to the Appeals Board (Board) dated March 21, 2002, they argued the facts cited in the affidavits filed in this claim would cause a reasonable person to doubt the ALJ's impartiality in dealings with claimant's attorney. Accordingly, claimant and claimant's attorney request the Board to issue an order that the ALJ be recused from this case and also issue a blanket recusal to prevent the ALJ from adjudicating any proceedings in which claimant's attorney appears.

Findings of Fact and Conclusions of Law

After reviewing the record and considering the claimant's brief, the Board makes the following findings and conclusions:

The Board finds the Assistant Director's February 7, 2002, Final Order that denied claimant's request to recuse ALJ Bruce E. Moore from participating in this claim and any future proceedings which claimant's attorney appears should be affirmed. The Board agrees with the Assistant Director's analysis of the evidence and his findings and conclusions as set forth in his Final Order. It is not necessary to repeat those findings and conclusions in this Order. Therefore, the Board adopts those findings and conclusions as if specifically set forth herein.

WHEREFORE, the Board finds and concludes that Assistant Director's February 7, 2002, Final Order that denied claimant's request to recuse ALJ Bruce E. Moore is affirmed.

IT IS SO ORDERED.

Dated this ____ day of July 2002.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: Roger A. Riedmiller Attorney for Claimant
P. Kelly Donley, Attorney for Respondent and Insurance Carrier
Kenneth J. Hursh, Assistant Director
Philip S. Harness, Workers Compensation Director